



# CITY COUNCIL

## AGENDA REQUEST

AGENDA OF:	09-07-10	AGENDA REQUEST NO:	III-G
INITIATED BY:	CHRIS CAMERON TRAFFIC OPERATIONS MANAGER	RESPONSIBLE DEPARTMENT:	PUBLIC WORKS
PRESENTED BY:	DAVID WORLEY, P.E. ASSISTANT PUBLIC WORKS DIRECTOR	DEPARTMENT HEAD:	KAREN DALY <i>kd</i> ASSISTANT CITY MANAGER
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	PAVEMENT MARKING SERVICES AUTHORIZE CONTRACT		
EXHIBITS:	CONTRACT DOCUMENTS		
CLEARANCES		APPROVAL	
LEGAL:	JOE MORRIS, CITY ATTORNEY <i>Joe Morris</i>	EXECUTIVE DIRECTOR:	N/A
PURCHASING:	TODD REED PURCHASING MANAGER <i>(P)</i>	ASST. CITY MANAGER:	KAREN DALY <i>kd</i>
BUDGET:	BRYAN R. GUINN <i>BH</i> BUDGET MANAGER	CITY MANAGER:	ALLEN BOGARD <i>Allen Bogard</i>
BUDGET			
EXPENDITURE REQUIRED: \$		80,000	
CURRENT BUDGET: \$		80,000 (FY11)	
ADDITIONAL FUNDING: \$		N/A	
RECOMMENDED ACTION			
Authorize a pavement marking services contract in a maximum amount of \$80,000 to P.B. & J. Pavement Marking Inc.			

## EXECUTIVE SUMMARY

As part of the City's Pavement Markings Maintenance Program, the Public Works Department, Traffic Engineering and Operations is responsible for the maintenance of all the pavement markings in the public rights-of-way. A contract was created to assist in the maintenance of these pavement markings.

An annual budget of \$80,000 has been allocated for the maintenance contract. Funding for this contract is available in the Traffic Engineering and Operations budget, 010-1420-514-4303. The contract is setup as a three-year agreement, with the original term plus two annual options to renew.

On August 12, 2010 the City received two bids and the low bidder is P.B. & J. Pavement Marking Inc.

Bidder	Bid Price	Bid Bond Received
P.B. & J. Pavement Marking Inc.	102,490.00	X
Durham Traffic Signs, Inc.	162,735.00	X



This contract is structured as a unit price contract which enables the Department to utilize as few or as many of the bid services as the project budget allows. Although the unit cost low bid came in at \$102,490, it is anticipated that the program budget of \$80,000 will be adequate for the next year to maintain the pavement markings.

The Public Works Department, Traffic Engineering and Operations recommends the City Council award a pavement markings maintenance contract in a maximum amount of \$80,000 for FY11 with an option to renew for two more terms to P.B. & J. Pavement Marking Inc.

## EXHIBITS

City of Sugar Land Bid Opening  
ITB 2010-37 Pavement Marking Services  
August 12, 2010; 11:00 am

### Witnesses

Name	Agency	Signature
Jason Poscovsky	City of Sugar Land	
Todd Reed	City of Sugar Land	

### Bids Received

Bidding Agency	Date/Time Received	Total Bid
PB & J Pavement Marking, Inc	8/12/10 @ 10:36 a.m.	\$102,490.00
Durham Traffic Signs, Inc.	8/12/10 @ 10:47 a.m.	\$162,735.00

**CITY OF SUGAR LAND**  
**STANDARD CONTRACT FOR GENERAL SERVICES**  
Over \$50K - Form Revised 5/17/10

**I. General Information and Terms.**

Contractor's Name and Address: PB&J Pavement Marking, Inc.  
12050 Dover Street  
Houston, TX 77031

Description of Services: Pavement Marking Services

Maximum Contract Amount: \$80,000

Effective Date: On the latest date of the dates executed by both parties.

Termination Date: (See III C)

Contract Parts: This Contract consists of the following parts:

- I. General Information and Terms
- II. Signatures
- III. Standard Contractual Provisions
- IV. Additional Terms or Conditions
- V. Additional Contract Documents

**II. Signatures.** By signing below, the parties agree to the terms of this Contract:

**CITY OF SUGAR LAND**

**CONTRACTOR:**

\_\_\_\_\_  
City Manager or Assistant City Manager

By: 

Date: \_\_\_\_\_

Date: 8-30-10

Reviewed for Legal Compliance:



### **III. Standard Contractual Provisions.**

A. Contractor's Services. The Contractor will provide to the City the services described in this Contract under the terms and conditions of this Contract.

B. Billing and Payment. The Contractor will bill the City for the services provided at intervals of at least 30 days, except for the final billing. The City will pay the Contractor for the services provided for in this Contract with current revenues available to the City, but all the City's payments to the Contractor, including the time of payment and the payment of interest on overdue amounts, are subject to the provisions of Chapter 2251 of the Government Code. The City is not liable to the Contractor for any taxes which the City is not liable by law, including state and local sales and use taxes (Section 151.309 and Title 3, Texas Tax Code) and federal excise tax (Subtitle D of the Internal Revenue Code). Accordingly, those taxes may not be added to any bill.

C. Termination Provisions.

(1) Unless terminated earlier as allowed by this Contract, this Contract terminates:

(a) On the termination date, if any, specified in the General Information in Part 1, but the obligation of a party to complete a contract requirement pending on the date of termination survives termination; or

(b) If there is no termination date specified in the General Information in Part 1, the Contract terminates when both parties have completed all their respective obligations under the Contract.

(2) The City's city manager may terminate this Contract during its term at any time for any reason by giving written notice to the Contractor not less than five business days prior to the termination date, but the City will pay the Contractor for all services rendered in compliance with this Contract to the date of termination.

(3) If the City's city council does not appropriate funds to make any payment for a fiscal year after the City's fiscal year in which the Contract becomes effective and there are no proceeds available for payment from the sale of bonds or other debt instruments, then the Contract automatically terminates at the beginning of the first day of the successive fiscal year. (Section 5, Article XI, Texas Constitution)

D. Liability and Indemnity. Any provision of the Contract is void and unenforceable if it: (1) limits or releases either party from liability that would exist by law in the absence of the provision; (2) creates liability for either party that would not exist by law in the absence of the provision; or (3) waives or limits either party's rights, defenses, remedies, or immunities that would exist by law in the absence of the provision.

E. Assignment. The Contractor may not assign this Contract without the City's prior written consent.

F. Law Governing and Venue. This Contract is governed by the law of the State of Texas and a lawsuit may only be prosecuted on this Contract in a court of competent jurisdiction located in or having jurisdiction in Fort Bend County, Texas.

G. Entire Contract. This Contract represents the entire Contract between the City and the Contractor and supersedes all prior negotiations, representations, or contracts, either written or oral. This Contract may be amended only by written instrument signed by both parties.

H. Independent Contractor. The Contractor will perform the work under this Contract as an independent contractor and not as an employee of the City. The City has no right to supervise, direct, or control the Contractor or Contractor's officers or employees in the means, methods, or details of the work to be performed by Contractor.

I. Dispute Resolution Procedures. If either party disputes any matter relating to this Contract, the parties agree to try in good faith, before bringing any legal action, to settle the dispute by submitting the matter to mediation before a

third party who will be selected by agreement of the parties. The parties will each pay one-half of the mediator's fees.

J. Attorney's Fees. Should either party to this Contract bring suit against the other party for any matter relating to this Contract, neither party will seek or be entitled to an award of attorney's fees or other costs relating to the suit.

K. Severability. If a court finds or rules that any part of this Contract is invalid or unlawful, the remainder of the Contract continues to be binding on the parties.

L. Contractual Limitations Period. Any provision of the Contract that establishes a limitations period that does not run against the City by law or that is shorter than two years is void. (Sections 16.061 and 16.070, Texas Civil Practice and Remedies Code)

M. Conflicting Provisions. If there is a conflict between a provision in the Contractor's Additional Contract Documents and a provision in the remainder of this Contract, the latter controls.

N. Copyright. Any original work (the Work), including any picture, video, music, brochure, writing, trademark, logo or other work created by the Contractor for the use of the City under this Contract is a "work made for hire," as defined by federal copyright law. If the Work is not by law a "work made for hire," the Contractor by execution of this Contract assigns to the City all of its rights to the Work, including the copyright. The City, as the author and owner of the copyright to the Work, may alter, reproduce, distribute, or make any other use of the Work as it deems appropriate.

**IV. Additional Terms or Conditions.** None.

**V. Additional Contract Documents.** The following documents attached to this Contract are part of this Contract:

A. Contractor's Additional Contract Documents:

1. PB&J Pavement Marking, Inc. Response to City of Sugar Land Invitation to Bid No. 2010-37 (47 pages)

B. City's Additional Contract Documents:

1. City of Sugar land Invitation to Bid No. 2010-37 (47 pages)
2. Insurance form (4 pages)